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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA
and CALIFORNIA DEPARTMENT
OF TOXIC SUBSTANCES
CONTROL,

Plaintiffs,

v.

LOCKHEED MARTIN
CORPORATION, MOBIL OIL
CORPORATION, and THE
VALSPAR CORPORATION,

Defendants.

Civil No.

COMPLAINT FOR COST
RECOVERY, INJUNCTIVE
RELIEF, AND CIVIL PENALTIES

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1 The United States of America, by and through the undersigned attorneys, by
2 the authority of the Attorney General of the United States and at the request of and
3 on behalf of the United States Environmental Protection Agency (“EPA”), and the
4 California Department of Toxic Substances Control (“DTSC”) allege the
5 following:

6 STATEMENT OF THE CASE

7 1. This is a civil action brought pursuant to Sections 106 and 107 of the
8 Comprehensive Environmental Response, Compensation, and Liability Act, as
9 amended (“CERCLA”), 42 U.S.C. §§ 9606, 9607, against Lockheed Martin
10 Corporation (“Lockheed”), Mobil Oil Corporation (“Mobil”), and The Valspar
11 Corporation (“Valspar”) (jointly “Defendants”). Pursuant to CERCLA Sections
12 106 and 107, 42 U.S.C. §§ 9606, 9607, the United States and DTSC seek:
13 (1) recovery of unreimbursed costs incurred and to be incurred by them, together
14 with interest, for activities undertaken in response to the release or threatened
15 release of hazardous substances at the Baldwin Park Operable Unit of the San
16 Gabriel Valley Superfund Sites, Areas 1-4, in Los Angeles County, California (the
17 “BPOU Area” or “Site”); (2) performance of studies and response work by
18 Defendants at the BPOU Area consistent with the National Contingency Plan, 40
19 C.F.R. Part 300 (as amended); and (3) penalties of not more than \$27,500 for each
20 day for violations occurring before and including March 15, 2004, and not more
21 than \$32,500 per day for each day of violation after March 15, 2004, in which
22 Defendants, without sufficient cause, willfully violated, or failed or refused to
23 comply with, EPA’s June 30, 2000 unilateral administrative order issued under
24 Section 106 of CERCLA, 42 U.S.C. § 9606, and Section 7003 of the Solid Waste
25 Disposal Act, as amended by the Resource Conservation and Recovery Act of
26 1976 and the Hazardous and Solid Waste Amendments of 1984 (collectively,
27 “RCRA”), 42 U.S.C. § 6973, relating to the BPOU Area. In addition, the
28 complaint seeks injunctive relief pursuant to Section 7003 of RCRA, 42 U.S.C.

1 § 6973.

2 JURISDICTION AND VENUE

3 2. This Court has jurisdiction over the subject matter of this action
4 pursuant to 42 U.S.C. §§ 6973(a), 9606, 9607, and 9613(b), and 28 U.S.C. §§ 1331
5 and 1345.

6 3. Venue is proper in this district pursuant to 42 U.S.C. § 9613(b) and 28
7 U.S.C. § 1391(b) and (c) because the claims arose, and the threatened or actual
8 releases of hazardous substances occurred, in this district, and because Defendants
9 reside in this district.

10 DEFENDANTS

11 4. Each Defendant is a “person,” as defined by Section 101(21) of
12 CERCLA, 42 U.S.C. § 9601(21), and Section 1004(15) of RCRA, 42 U.S.C.
13 § 6903(15).

14 5. Lockheed is a Maryland corporation and a person who, at the time of
15 disposal of a hazardous substance, owned and operated a facility from which there
16 was a release, or a threatened release, of a hazardous substance that caused the
17 incurrence of response costs.

18 6. Mobil is a New York corporation and a person who, at the time of
19 disposal of a hazardous substance, owned and operated a facility from which there
20 was a release, or a threatened release, of a hazardous substance that caused the
21 incurrence of response costs.

22 7. Valspar is a Delaware corporation and a person who, at the time of
23 disposal of a hazardous substance, owned and operated a facility from which there
24 was a release, or a threatened release, of a hazardous substance that caused the
25 incurrence of response costs.

26 GENERAL ALLEGATIONS

27 8. The BPOU Area is located in the San Gabriel Valley in and near the
28 cities of Azusa, Irwindale, Baldwin Park, and West Covina in Los Angeles County,

1 California. The BPOU Area comprises a several mile long area of groundwater
2 contamination in the San Gabriel Valley. The BPOU Area is a “facility” within the
3 meaning and scope of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4 9. In October 1984, EPA placed the BPOU Area on the National
5 Priorities List based on water quality information available at the time of listing.
6 40 C.F.R. Part 300, Appendix B. The BPOU Area is known as the San Gabriel
7 Valley Area 2 Superfund Site.

8 10. Subsequent investigation by EPA and others revealed the tremendous
9 extent of groundwater contamination in the San Gabriel Valley. During the past 25
10 years, more than one-quarter of the approximately 190 municipal water supply
11 wells in the San Gabriel Valley have been found to be contaminated, requiring
12 water companies to shut down wells, install new treatment facilities, and take other
13 steps to ensure that they can supply water meeting federal and State drinking water
14 standards.

15 11. From approximately October 1984 to April 1993, EPA undertook a
16 Remedial Investigation and Feasibility Study (“RI/FS”) for the BPOU Area,
17 pursuant to CERCLA and the National Contingency Plan, 40 C.F.R. Part 300. In a
18 report dated April 2, 1993, EPA presented the results of the BPOU Area RI/FS.

19 12. EPA’s decision on the interim remedial action for the BPOU Area is
20 embodied in an interim Record of Decision (“ROD”), executed on March 31, 1994.
21 The ROD is supplemented by an Explanation of Significant Differences (“ESD”)
22 issued in May 1999. The selected interim remedy provides for the construction
23 and operation of groundwater extraction wells, treatment facilities, and conveyance
24 facilities capable of pumping and treating approximately 22,000 gallons per minute
25 of contaminated groundwater from the BPOU Area. This remedy is intended to
26 limit the movement of contaminated groundwater into clean or less contaminated
27 areas and depths, remove a significant mass of contamination from the
28 groundwater, and provide the data necessary to determine, in a subsequent final

Record of Decision, “in situ” cleanup standards for the BPOU Area.

13. Lockheed, through its predecessor-in-interest Martin Marietta Corporation, owned and operated a facility at 1004 W. 10th Street in Azusa, California (the “1004 W. 10th Street property”), from approximately 1955 to approximately 1963. Mobil owned and operated a facility at the 1004 W. 10th Street property from approximately 1963 to approximately 1984. Valspar owned and operated a facility at the 1004 W. 10th Street property from approximately 1984 to 1999.

14. Operations at the 1004 W. 10th Street property have included the production of vinyl resins in adhesives, coatings, linings for tinplate beverage containers, the manufacture of printing inks, and the manufacture and blending of paint. Chemical use at the 1004 W. 10th Street property has included trichloroethene (“TCE”), methylene chloride (“MC”), xylene, toluene, ethylbenzene, and methyl ethyl ketone. In 1987, Valspar reported the purchase of approximately 113,000 gallons of xylenes, approximately 6,500 gallons of toluene, approximately 220 gallons of ethylbenzene, and less than one pound per day of TCE. Mobil reported the use of 100-500 gallons per year of MC between 1975 and 1979 to clean portable tanks. Analysis of a wastewater sludge sample in 1981 confirmed the presence of TCE and 1,1,1 trichloroethane (“1,1,1-TCA”). Indications of past releases of hazardous substances are apparent in Los Angeles County records. The reports refer to evidence of prior spills at permanent rail tank cars, rail docks, and portable tank cleaning areas. The records also report a violation of the California Health and Safety Code because the truck turnaround area for the receiving area collected 20,000 to 30,000 gallons of rainwater during storms, and numerous spills of solvents and pigments washed into the area. Spillage onto the ground from tank cars used as storage was also observed. The records indicate that some stored materials in spillage areas were highly hazardous. In addition, in 1981, Mobil reported a spill of 1,500 gallons of non-chlorinated

1 solvents, with partial recovery.

2 15. In subsurface investigations at the 1004 W. 10th Street property,
3 perchloroethylene (“PCE”), TCE, 1,1,1-TCA, cis-1,2-dichloroethene (“cis-1,2-
4 DCE”), 1,2-dichloroethane (“1,2-DCA”), 1,1-DCA, 1,1-DCE, xylene, benzene,
5 toluene, and other chemicals have been detected in soil, soil vapor, and/or
6 groundwater. These investigations confirmed the presence of hazardous
7 substances, as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and
8 solid wastes, as defined by Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), at
9 the 1004 W. 10th Street property.

10 16. Lockheed, through its predecessor-in-interest Lockheed Corporation,
11 operated a facility at 717 North Coney Avenue in Azusa, California (the “Coney
12 Avenue property”), from approximately 1973 to approximately 1978. Lockheed
13 manufactured electronic devices at the Coney Avenue property, and used
14 degreasers and degreasing solvents, including TCE. Solvents including TCE were
15 disposed of at the Coney Avenue property.

16 17. In subsurface investigations at the Coney Avenue property, PCE,
17 carbon tetrachloride, TCE, 1,1,1-TCA, cis-1,2-DCE, and other chemicals have
18 been detected in soil and/or soil vapor. These investigations confirmed the
19 presence of hazardous substances, as defined by Section 101(14) of CERCLA, 42
20 U.S.C. § 9601(14), and solid wastes, as defined by Section 1004(27) of RCRA, 42
21 U.S.C. § 6903(27), at the Coney Avenue property.

22 18. The 1004 W. 10th Street property and the Coney Avenue property are
23 each a “facility” within the meaning and scope of Section 101(9) of CERCLA, 42
24 U.S.C. § 9601(9).

25 19. There was a “release” or a threat of a “release,” as defined by Section
26 101(22) of CERCLA, 42 U.S.C. § 9601(22), of hazardous substances into the
27 environment at and from the 1004 W. 10th Street property and the Coney Avenue
28 property.

1 20. Hazardous substances, within the meaning of Section 101(14) of
2 CERCLA, 42 U.S.C. § 9601(14), and solid wastes, within the meaning of Section
3 1004(27) of RCRA, 42 U.S.C. § 6903(27), have been disposed of at the 1004 W.
4 10th Street property and the Coney Avenue property.

5 21. Hazardous substances and solid wastes released from Defendants'
6 facilities have moved downward from the surface and through soil, contaminating
7 groundwater beneath the 1004 W. 10th Street property and the Coney Avenue
8 property. The contamination has generally migrated southward and westward from
9 the 1004 W. 10th Street property and the Coney Avenue property, leaving large
10 plumes of contaminated groundwater in the BPOU Area.

11 22. The release or threat of release of one or more hazardous substances
12 from the 1004 W. 10th Street property, the Coney Avenue property, and the BPOU
13 Area may present an imminent and substantial endangerment to the public health
14 or welfare or the environment under Section 106(a) of CERCLA, 42 U.S.C.
15 § 9606(a). The substances listed in Paragraphs 15 and 17 are solid wastes that may
16 present an imminent and substantial endangerment to health or the environment
17 under Section 7003 of RCRA, 42 U.S.C. § 6973.

18 23. On or about January 10, 1995, EPA notified Lockheed, Mobil, and
19 Valspar that it considered Lockheed, Mobil, and Valspar, as the former or current
20 operators of the 1004 W. 10th Street property, to be potentially responsible for
21 costs incurred in the investigation and clean-up of groundwater contamination in
22 the BPOU Area. On or about December 30, 2002, EPA notified Lockheed that it
23 considered the company, as a former operator at the Coney Avenue property, to be
24 a potentially responsible party ("PRP") for the BPOU Area.

25 24. On June 30, 2000, EPA, pursuant to Section 106(a) of CERCLA, 42
26 U.S.C. § 9606(a), and Section 7003 of RCRA, 42 U.S.C. § 6973, issued to nineteen
27 PRPs, including Defendants, a unilateral administrative order ("Order"), requiring
28 each of them to perform at the BPOU Area the remedial action activities set forth

1 in the ROD as supplemented by the ESD. The effective date of the Order was July
2 10, 2000.

3 25. In issuing the Order, EPA found that the release or threat of release of
4 one or more hazardous substances and solid wastes from the Site may present an
5 imminent and substantial endangerment to health, welfare, and the environment
6 under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and Section 7003 of
7 RCRA, 42 U.S.C. § 6973. EPA also found that the actions required by the Order
8 were necessary to protect the public health, welfare, and the environment.

9 26. A group of nine PRPs are complying with EPA's Order by
10 implementing a joint cleanup and water supply project with certain water
11 purveyors in the San Gabriel Valley. Lockheed, Mobil, and Valspar are not
12 performing the work required by the Order.

13 **FIRST CLAIM FOR RELIEF**
14 **Injunctive Relief under CERCLA Section 106**

15 27. The allegations contained in Paragraphs 1 - 26 are realleged and
16 incorporated by reference herein.

17 28. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in
18 pertinent part:

19 [W]hen the President determines that there may be an imminent and
20 substantial endangerment to the public health or welfare or the environment
21 because of an actual or threatened release of a hazardous substance from a
22 facility, he may require the Attorney General of the United States to secure
23 such relief as may be necessary to abate such danger or threat, and the
24 district court of the United States in the district in which the threat occurs
25 shall have jurisdiction to grant such relief as the public interest and the
26 equities of the case may require.

27 29. Each Defendant is liable as a person who, at the time of disposal of
28 hazardous substances, operated a facility at which such hazardous substances were
29 disposed of, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C.
30 § 9607(a)(2).

31 30. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a),

1 Defendants are jointly and severally liable to Plaintiffs for injunctive relief to abate
2 and remedy the imminent and substantial endangerment to public health or welfare
3 or the environment presented by the BPOU Area.

4 SECOND CLAIM FOR RELIEF
5 Response Costs under CERCLA Section 107

6 31. The allegations contained in Paragraphs 1 - 26 and 29 are realleged
7 and incorporated by reference herein.

8 32. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that the
9 owner and operator of a vessel or a facility from which there is a release, or a
10 threatened release, of a hazardous substance that causes the incurrence of response
11 costs shall be liable for all costs of removal or remedial action incurred by the
12 United States Government or a State not inconsistent with the National
13 Contingency Plan.

14 33. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides in
15 pertinent part that, in any action for recovery of costs: “the court shall enter a
16 declaratory judgment on liability for response costs or damages that will be
17 binding on any subsequent action or actions to recover further response costs or
18 damages.”

19 34. The actions taken by the United States and DTSC in connection with
20 the Site constitute “response” actions within the meaning of Section 101(25) of
21 CERCLA, 42 U.S.C. § 9601(25), in connection with which the United States and
22 DTSC have incurred costs.

23 35. The costs incurred by the United States and DTSC in connection with
24 the Site are not inconsistent with the National Contingency Plan, which was
25 promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a), and codified
26 at 40 C.F.R. Part 300.

27 36. As of June 30, 2004, the United States had incurred response costs in
28 connection with the Site of approximately \$32.1 million. The United States has

1 received reimbursement to date in the sum of approximately \$11.4 million. The
2 United States continues to incur response costs in connection with the Site.

3 37. As of March 31, 2004, DTSC had incurred response costs in
4 connection with the Site in excess of \$3,960,000, and has received reimbursement
5 of approximately \$224,000. DTSC continues to incur response costs in connection
6 with the Site.

7 38. Each Defendant is jointly and severally liable to the United States and
8 DTSC for all response costs incurred and to be incurred by the United States and
9 DTSC in connection with the Site, including enforcement costs and prejudgment
10 interest on such costs, pursuant to Section 107(a) of CERCLA, 42 U.S.C.
11 § 9607(a).

12 **THIRD CLAIM FOR RELIEF**
13 **Injunctive Relief under RCRA Section 7003**

14 39. The allegations contained in Paragraphs 1 - 26 are realleged and
15 incorporated by reference herein.

16 40. Section 7003(a) of RCRA, 42 U.S.C. § 6973(a), provides in pertinent
17 part:

18 [U]pon receipt of evidence that the past or present handling, storage,
19 treatment, transportation or disposal of any solid waste or hazardous waste
20 may present an imminent and substantial endangerment to health or the
21 environment, the Administrator may bring suit . . . against any person
22 (including any past or present generator, past or present transporter, or past
23 or present owner or operator of a treatment, storage, or disposal facility) who
24 has contributed or who is contributing to such handling, storage, treatment,
25 transportation or disposal . . . to order such person to take such . . . action as
26 may be necessary

27 41. Defendants are persons who have contributed or are contributing to
28 the past or present handling, storage, treatment, transportation and/or disposal of
solid waste at the BPOU Area.

42. EPA has evidence that the past or present handling, storage, treatment,
transportation and/or disposal of solid waste at the BPOU Area may present an
imminent and substantial endangerment to health or the environment.

1 43. Notice of this suit has been provided to the State of California in
2 accordance with Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

3 44. Pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a),
4 Defendants are jointly and severally liable to Plaintiffs for injunctive relief to abate
5 and remedy the imminent and substantial endangerment to health or the
6 environment presented by the BPOU Area.

7 FOURTH CLAIM FOR RELIEF
8 Civil Penalties under CERCLA Section 106

9 45. The allegations contained in Paragraphs 1 - 26 and 29 are realleged
10 and incorporated by reference herein.

11 46. Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1), provides as
12 follows:

13 Any person who, without sufficient cause, willfully violates, or fails or
14 refuses to comply with, any order of the President under subsection (a) of
15 this section may, in an action brought in the appropriate United States
district court to enforce such order, be fined not more than \$25,000 for each
day in which such violation occurs or such failure to comply continues.

16 Pursuant to the Debt Collection Improvement Act of 1996, Pub. L. 104-134, and
17 40 C.F.R. §§ 19.2, 19.4 (Table), civil penalties of up to \$27,500 per day per
18 violation may be assessed for violations occurring after January 30, 1997, and
19 penalties up to \$32,500 per day per violation may be assessed for violations
20 occurring after March 15, 2004.

21 47. Each Defendant has, without sufficient cause, failed or refused to
22 comply with the terms of the Order issued by EPA pursuant to Section 106(a) of
23 CERCLA, 42 U.S.C. § 9606(a).

24 48. Each Defendant is subject to civil penalties of not more than \$27,500
25 per day for each day of noncompliance with the Order pursuant to Section
26 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1) for violations occurring before and
27 including March 15, 2004, and not more than \$32,500 per day for each day of
28 violation after March 15, 2004.

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1. Order the Defendants, jointly and severally, to take all measures necessary to abate and remedy the imminent and substantial endangerment to the health or welfare or the environment presented by the BPOU Area.

3. Enter a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages;

5. Award the United States and DTSC their costs of this action; and

1 6. Grant such other and further relief as this Court deems to be just and
2 proper.

3 Respectfully submitted,
4 FOR THE UNITED STATES OF AMERICA

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6
7 Date: _____

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